UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

                                        Plaintiff,

                                                            Case #10-CR-6096-FPG

v.
                                                            DECISION & ORDER

PABLO PLAZA (DOB xx/xx/72),

                                        Defendant.

By Text Order of Hon. Charles J. Siragusa, entered on March 1, 2011, Defendant Pablo

Plaza (DOB xx/xx/72)'s case was referred to United States Magistrate Judge Jonathan W.

Feldman, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B).   ECF No. 75.   As part of a Second

Superseding Indictment returned on July 17, 2012, involving multiple defendants and alleging a

drug conspiracy occurring from 1993 through March 2, 2011, firearms crimes and murder while

engaged in a drug crime (ECF No. 268), Defendant has been charged with Counts 1, 4, 5, 6, 7, 8,

9, 10, 11, and 14 (to wit: Narcotics Conspiracy in violation of 21 U.S.C. § 846; two counts of

Possession of Heroin with Intent to Distribute in violation of 21 U.S.C. §§ 841(a)(1),

841(b)(1)(A), and 18 U.S.C. § 2; two counts of Using Premises for Drug Dealing in violation of

21 U.S.C. § 856(a)(1) and 18 U.S.C. § 2; two counts of Possession of Firearms in Furtherance of

Drug Crime in violation of 18 U.S.C. §§ 924(c)(1) and 2; Possession and Discharge of Firearms

in Furtherance of Drug Crime in violation of 18 U.S.C. §§ 924(c)(1)(A)(iii) and 2; Possession of

Cocaine with Intent to Distribute in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 18

U.S.C. § 2; and Murder While Engaged in Drug Crime in violation of 21 U.S.C. § 848(e)(1)(A)

and 18 U.S.C. § 2).

Following an indication by defense counsel of Defendant's intention to seek suppression of the statement "[t]hat shit is mine, not hers," alleged to have been made on March 2, 2011 to law enforcement during the execution of a no-knock search warrant and an arrest warrant for Defendant at his residence, Apartment 5, 166 Meigs Street, Rochester, New York, the Magistrate Judge held a suppression hearing on July 30, 2012. ECF No. 299.   At the conclusion of the hearing, the Magistrate Judge, at defense counsel's request, held the proof open for the government's decision on the death penalty. *Id.*

In the instant Report and Recommendation filed on November 21, 2014 (ECF No. 620), the Magistrate Judge recommended that I deny Defendant's motion to suppress the statement, setting forth the pertinent facts, the applicable relevant legal principles, and the legal reasoning underlying the recommendation of the denial of the suppression motion. Additionally, pursuant to 28 U.S.C. § 636(b)(1) and Rule 59(b)(2) of the Local Rules of Criminal Procedure for the Western District of New York, the Magistrate Judge ordered any Objections to the Report and Recommendation to be filed within fourteen (14) days after receipt of the Report and Recommendation and set the due date as December 8, 2014. *Id.*

The statutory period for filing such Objections has expired, and the Court has not received any Objections to Report and Recommendation during the filing period. Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Magistrate Judge's Report and Recommendation to which objections have been made. Under this provision, "[a] judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.*
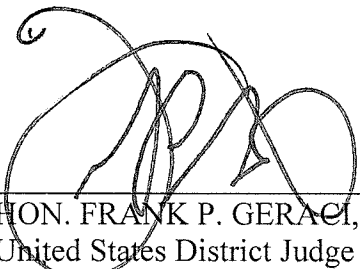
Upon reviewing all matters submitted, I find no basis to alter, modify, or reject any of the reasoning, findings, and conclusions set forth in the Report and Recommendation. The

Magistrate Judge's recommendation to deny the motion to suppress reflects a well-reasoned analysis of the facts and application of the relevant law.

Accordingly, I accept and adopt the written Report and Recommendation filed by United States Magistrate Judge Jonathan W. Feldman (ECF No. 620) in its entirety. Defendant's Motion to suppress evidence of the statement made on March 2, 2011 to law enforcement at Apartment 5, 166 Meigs Street, Rochester, New York, is hereby denied.

IT IS SO ORDERED.

Dated: December 18, 2014
      Rochester, New York

HON. FRANK P. GERACI, JR.
United States District Judge

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